



State and Consumer Services Agency – Edmund G. Brown Jr., Governor
BOARD OF BARBERING AND COSMETOLOGY
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CALIFORNIA STATE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF JULY 30, 2012

**Department of Consumer Affairs
1625 North Market Blvd.
Hearing Room S-102, First Floor
Sacramento, CA 95834**

BOARD MEMBERS PRESENT

Christie Truc Tran, President
Joseph Federico, Vice President
Wen Ling Cheng
Katie Dawson
Frank Lloyd
Richard Hedges

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Hilda Youngblood, Assistant Executive Officer
Gary Duke, Legal Counsel
Tandra Guess, Executive Analyst

Members Absent:

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1. Agenda Item #1, Call to Order/Roll Call

Ms. Tran called the meeting to order at 10:00 a.m. She welcomed the attendees to the meeting. The Board members introduced themselves.

2. Agenda Item, #2, Public Comment

Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125 (a)]

The public present did not wish to address the Board at this time.

3. Agenda Item #3, Presentation from Allies Innovative Initiative Representative – Paul Downs

Mr. Hedges reported Mr. Downs was unable to attend the meeting due to jury duty and requested to reschedule his presentation.

4. Agenda Item #4, Board President's Report

Ms. Tran reported she was recently interviewed by Nail Magazine.

5. Agenda Item #5, Executive Officer Report

- **Review of Board Statistics**

Ms. Underwood provided a brief summary of the board statistics for the final quarter of the fiscal year. She noted the statistics were typically higher in the final quarter as everyone is working overtime to get things done by the end of the year. She noted the pass rates of the Spanish exams continue to be low and they will be doing research into this. Ms. Dawson asked if the statistics can be broken down into categories of training. Ms. Underwood hoped the existing database and working with the national exam group would help determine the problem.

It was noted the Disciplinary Review Committee (DRC) was short staff members but this has not impacted their productivity. Mr. Hedges believed they were falling a little behind due to an increase in caseload but he and Mr. Lloyd have agreed to work additional days. He was concerned that they were hearing people on their third or fourth offense.

Ms. Underwood reported on an update she received the morning of the meeting that the establishment application processing time has been reduced to 3 weeks (from 2-3 months in the past). She commended the licensing staff on their hard work.

Mr. Hedges asked for clarification on projected expenditures and the budget. Ms. Underwood reported the budget was in good condition with a good fund reserve. She did not see any future issues.

6. Agenda Item #6, Approval of Board Meeting Minutes

- **April 30, 2012**

Upon a motion by Mr. Hedges, seconded by Mr. Lloyd, the minutes were approved by a vote of 6-0.

7. Agenda Item #7, Legislative Update

- **AB 1588 (Atkins, Coauthors Cook, Nielsen, Block, Beth Gaines Pan, V. Manuel Perez, Williams and Yamada): Reservist Licenses: Fees and continuing education**

Requires boards to waive the renewal fees or continuing education requirements for reservists called to active duty. Mr. Hedges asked about the fiscal impact; Ms. Underwood noted there would be little impact. Mr. Hedges made the motion to support the bill. It was seconded by Mr. Federico and approved by a 6-0 vote.

- **AB 1904 (Block, Butler and Cook): Military spouses: temporary licenses**

This requires the Board to issue a temporary license to military spouses from out-of-state and expedite the process. Ms. Underwood was concerned about the bill as the Board does not have the system capabilities to issue a temporary license. This would require significant programming changes to the future database and have a large fiscal impact. Mr. Lloyd recommended expediting the licensing process of the spouses. Mr. Hedges expressed concern about proper training in California procedure. Mr. Duke agreed that California did have higher standards. Ms. Underwood stated the intention would only be to expedite the process but the requirements would not be waived. This was accomplished by the amendment in June. Ms. Dawson wondered why the bill was needed and if there was a problem. Ms. Underwood stated it originated out of San Diego. Mr. Hedges moved to support the bill as amended. It was seconded by Ms. Tran.

Public Comment

Jaime Schrabek of Precision Nails stated the bill would circumvent the reciprocity requirement of three years of experience in the state where licensed. Ms. Underwood stated the reciprocity would be maintained.

Mr. Hedges made the motion to support the bill and it was seconded by Ms. Tran. The motion was approved by a 5-0-1 vote. Ms. Dawson abstained.

- **AB 2570 (Hill and Senator Correa): Settlement Agreements**

Ms. Underwood stated this bill is a no gag clause in a civil settlement. After a civil suit settlement, a complaint could still be filed with the DCA, subjecting the licensee to double jeopardy. Mr. Duke explained it would be void against public policy for a licensee to enter into a settlement agreement with no reporting to the licensing agency as they are confidential. He was unsure if it was necessary, as double compensation is now not allowed, but is constitutional and a good bill. Mr. Hedges made the motion to take a neutral position on this bill. It was seconded by Mr. Federico and approved by a 6-1 vote. (Mr. Lloyd voted nay)

- **AB 2575 (Furutani): Repeal of Section 7303 of Business and Professions Code**

This bill is clean-up language regarding reports submitted to the legislature years ago. Mr. Hedges made the motion to support the bill. It was seconded by Mr. Federico and approved by a 6-0 vote.

- **SB 977 (Wright): Add Section 101.2 to Business and Professions Code**

This urgency bill impacts the industry but not the Board. It requires manufacturers of nail polish to comply with the Sherman law regarding misbranding cosmetics or be subject to a fine of up to \$15,000. Mr. Hedges asked the audience for their impact.

Public Comment

Fred Jones of the Professional Beauty Federation of California (PBFC) stated the bill is sponsored by a major industry organization of manufacturing companies. Some nail polishes contains the "toxic trio" which can become toxic at certain levels even though not illegal. Most manufacturers have stopped using these chemicals and put "toxic trio free" on their labels. However, random samples of these were tested and found to have higher levels of the toxic trio. Mr. Jones noted the guilty manufacturers were a very small segment of the market share. He stated it was important to note that the majority of the industry has voluntarily backed away from the chemicals. The bill increases the fine from \$1,000 to \$15,000 and sends a strong message to the dishonest manufacturers.

Carol Monroe from Riverside Community College asked how often the FDA found mislabeled products. She felt there was a breakdown in communication between various agencies to allow this to happen.

Mr. Hedges moved to support the legislation. It was seconded by Ms. Dawson and approved by a 6-0 vote.

8. Agenda Item #8, Regulations Update

a) Scoring Methods in Examinations

This has been approved by the Office of Administrative Law (OAL) and changes the regulations to criterion reference scoring. Implementation is currently underway.

However it requires a system change and there is a current freeze until Breeze is finished. Schools are being sent information about the change. It will primarily impact the barbers because it eliminates aggregate scoring.

b) Inspection of Examination Papers/Text and Reference Books for Students

This was clean up language and is currently with the Department of Consumer Affairs for approval. It will then go to the Office of Administrative Law.

9. Agenda Item #9, Updates from Enforcement Committee

Mr. Hedges provided a summary of the Enforcement Committee Meeting held on July 16, 2012.

- **Discussion of Recommendations to Update the Health and Safety Regulations (Article 12 of Title 16, Division 9 of the California Code of Regulations) related to all licensees.**

The Committee discussed updates to health and safety regulations. They have been brought to the full Board for approval to proceed. Ms. Underwood stated staff is focusing on updating health and safety regulations and asked for a motion to proceed with the regulation changes to be put in the proper format and put out for public comment. Ms. Dawson made the motion to move forward with the regulations as presented in the package. Mr. Federico seconded the motion.

Public Comment:

Fred Jones of the PBFC commended staff for their excellent preparation of the updates. He asked that the comments be considered at the next Board meeting as the industry has not yet had the opportunity to discuss them with the Committee. He expected additional recommendations will be submitted. Mr. Duke asked if Mr. Jones preferred to delay the formal notice process and take the informal comments into consideration. Mr. Jones stated this would be the preferred route but did not want to slow down the process.

The Board agreed it is important to have the industry's input. Ms. Underwood recommended input be taken from the industry and the public and be discussed at a future Enforcement Committee meeting before the next Board meeting. Ms. Dawson wondered if there was a better way to notice the public about Committee meetings. Mr. Jones confirmed he was at the Committee meeting but stated he has spent a lot of time asking for input from the industry. He received a lot of input right before and after the meeting.

Jean Ogren from the Electrology Association of California wondered if gloves for electrologists could be included in the regulations. She stated she is notified by email of Board meetings but not committee meetings. Ms. Underwood stated everyone is notified of all meetings and was unsure why Ms. Ogren did not receive a notice. She was asked to ensure Tami Guess had her updated email information. Ms. Underwood reminded everyone the regulations are a work in progress. Staff is meeting with electrologists in August and possibly new changes will be incorporated.

Mr. Hedges moved to table the previous motion and send it to the Enforcement Committee for further discussion. Ms. Dawson believed the item should be continued and not tabled. Mr. Hedges agreed and withdrew his motion. Mr. Duke did not believe a motion was needed. Mr. Hedges made the recommendation for the item to be discussed at the Enforcement Committee meeting and agendaized for the next Board meeting. Ms. Dawson seconded the motion and it was approved by a 6-0 vote.

- **Discussion of Natural Hair Braiding and How to Enforce Section 7316 (d)(2).**
The Committee voted to proceed with licensing for braiders. A curriculum will need to be developed. This issue will be raised in the Sunset Review process.
- **Discussion on Licensee in Charge (Section 7348) Pertaining to Establishment Owners who do not hold a Personal License.**
It is common for establishment owners to receive fines due to their lack of knowledge in running a salon. The Committee has recommended an additional owner's license to instruct them in health and sanitation. The Committee will review the licensing requirements then refer the matter to the Licensing Committee. It will then go to the Board if it is approved.

10. Agenda Item #10, Sunset Review

Ms. Underwood referred to the first draft of the Sunset Review Report in the packet. She stressed this is a draft and more work is needed to be done. She discussed Section 11, New Issues. Two new issues are being submitted to the Legislature: 1) Gain sole oversight of schools and 2) regulation over braiding. She asked for Board feedback. The Board is requesting sole oversight of schools. The current dual oversight has caused continuous problems including schools selling hours. Mr. Hedges noted there have been many issues surrounding braiding including minimal training requirements. Mr. Lloyd agreed. Ms. Underwood noted staff will move forward and bring back another draft to the next Board meeting.

Public Comment

Fred Jones of PBFC agreed these are charged issues and the Board and the industry need to emphasize the importance of them to the legislators. Students are more aware of the Board than the Bureau of Private Post Secondary Education (BPPE) and call on the Board to resolve issues even though the Board is not paid by the schools. He believes there is consumer harm occurring due to the dual oversight and the BPPE's ignoring of student concerns. A consolidation is very necessary. He did not believe bad schools would be able to hide. Mr. Jones noted that braiding is a very politically sensitive issue. He did not believe all braiders should be required to be licensed, but only if they were going to work in a licensed salon. Traction alopecia is an important term in the braiding industry. He believed this is an appropriate middle ground.

Ms. Dawson believed the best way to deal with politics is evidence and preparation. She believed there was enough evidence to show that harm is being done by unlicensed braiders. Mr. Hedges stated he agreed with Mr. Jones' comments. He asked about the status of the Student Tuition Recovery Fund. Mr. Jones noted it has continued. He stated the BPPE charges schools \$26,000 per year for their license.

11. Agenda Item #11, Proposed Board Meeting Dates for 2013

Ms. Underwood presented the proposed Board meeting dates for 2013. Mr. Hedges made a motion to approve the schedule. Mr. Federico seconded the motion and it was approved by a 6-0 vote.

12. Agenda Item #12, Agenda Items for Next Meeting

Ms. Underwood planned to keep the agenda light to leave time to discuss the Sunset Review which is expected to be a lengthy item. Ms. Dawson asked to discuss specific courses required for license renewal. She is concerned about people who don't understand laws and regulations and believed a course should be developed to discuss common violations. Mr. Lloyd noted this subject has been discussed in the past with no resolution. Mr. Hedges believed the issue should be

revisited. Ms. Underwood offered to bring previous reports to the Board meetings for further discussion. She agreed it is important but believed it would be a large undertaking. A supporting legislator could not be found in the past.

Public Comment

Mr. Jones noted mandatory education can be ordered for repeat offenders. He believed the good licensees are constantly educating themselves and evolving their skills. Mr. Jones stated the PBFC was not against continuing education. Ms. Dawson noted the Dental industry requires yearly continuing education in the Dental Practice Act. She did not want to assume that everyone who has not been cited is a good professional.

Carol Monroe agreed with Ms. Dawson. She is a long-term license holder and stated she learned a lot when she returned to school. She wondered if an online course, such as the DMV's, could be used.

Mr. Duke stated the conversation regarding continuing education should be discussed at the next meeting in compliance with Bagley-Keene.

13. Agenda Item #13, Public Comment

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[Government Code Sections 11125, 11125 (a)]*

The public present did not wish to address the Board.

The meeting was adjourned to the closed session.

14. Agenda Item #14, Closed Session to Discuss Enforcement Cases

- **Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3).**
- **Adverse Action (Closed Pursuant to Government Code Section 11126(a)(1)).**

15. Agenda Item #15, ADJOURNMENT

The board returned to open session. With no further business, the meeting was adjourned.